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an assignment of the salary of a clerk, or the wages of a laborer, is that the person who executes it will go on and do the work, or render the services, which are necessary to call the interest assigned into being. Hence the intervention of equity to be really effectual must go to the length of enforcing the performance of the task which the assignor has impliedly promised to accomplish, and prohibiting its interruption, until the assignee has obtained full satisfaction. And even if such a decree were made and enforced, it might still be frustrated by the refusal of the employer to permit the work to be done or the services rendered. The difficulty, or rather the impossibility of doing this, and the mischief which it would produce if done, are too plain for comment, and render further argument superfluous. We do not think it necessary to pursue the subject further, and enter judgment for the defendants on the point reserved. Judgment for defendants.

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*In the Court of Quarter Sessions of Philadelphia County—  
November, 1856.*

COMMONWEALTH vs. ANDREW B. FRAZEE.

1. A State may waive its right to exercise judicial authority over portions of its territory.
2. By the agreement between the States of Pennsylvania and New Jersey made in 1783, the juridical investigation and determination of criminal offences committed on the river Delaware are specially provided for, and is exclusive, no other court having cognizance of such offences except as provided by this agreement and subsequent Acts of Assembly.
3. A defendant cannot be called upon to answer two distinct tribunals for the same offence.

THOMPSON, P. J.—The defendant, by his pleas, denies the right of the Court of Oyer and Terminer of the county of Philadelphia, to entertain jurisdiction of the offence charged in the indictment, for the reason that prior to the commencement of the prosecution in this county, he had been arrested and prosecuted for the same offence in the State of New Jersey, which said State had then the exclusive jurisdiction over the offence alleged to have been committed by him.

The indictment contains three counts, to each of which the defendant has put in a plea, differing from those pleaded to the other counts, only in the manner of stating his arrest and prosecution in New Jersey.

The Commonwealth, by the District Attorney, demurred to the several pleas, and, as by demurring, the truth of the facts stated in the pleas is allowed, the only question presented for decision is—whether the defendant, having been arrested and prosecuted in New Jersey, for the same offence charged in this indictment, and before the arrest or prosecution of the defendant within this Commonwealth, can be again indicted in this court for the same offence?

The facts relied on by the defendant in his pleas, and admitted by the demurrer, are—

That the alleged offence was committed on the river Delaware.

That by the agreement between the States of Pennsylvania and New Jersey, ratified by the State of Pennsylvania on the 20th of September, 1783, and by the State of New Jersey on the 27th March, 1783, it was agreed and established that all capital and other offences committed on the river Delaware, the juridical investigation and determination thereof should be exclusively vested in the State wherein the offender or person charged with such offence shall be first apprehended, arrested or prosecuted.

That by an act of her legislature, passed on the 14th day of March, 1856, the State of New Jersey had committed the investigation and determination of any capital, or other offence thereafter committed upon the river Delaware, under the agreement with the State of Pennsylvania, to the courts and officers of the county of said State of New Jersey, living and being nearest to the place where such offence was committed.

That the county of Camden lies and is the county of the State of New Jersey, nearest to the place upon the river Delaware, where the alleged offence in the indictment, charged against the defendant (if any such offence there was), was committed :

And that the said defendant was arrested and prosecuted in the said county of Camden, in the State of New Jersey, at a Court of Oyer and Terminer held therein for the said county at the May term

thereof, 1856, for the offence alleged in this indictment, and before any arrest or prosecution took place within this State.

Upon this state of the facts, all of which are admitted by the demurrer to be true, the defendant denies the present jurisdiction of this court over the alleged offence.

This objection to the exercise of jurisdiction by this court is properly taken by the pleas filed. Wherever an indictment is found in a court having no cognizance of the offence, or where exclusive jurisdiction is vested in another tribunal, by statute or otherwise, the defendant may plead to the jurisdiction, without answering to the alleged offence; 2 Hale, P. C. 286; 4 Bl. Com. 383. He has the right to have the power of the court to try the offence first determined.

That a State being sovereign, may waive or transfer its right to exercise judicial authority over portions of its territory, cannot be doubted. A State may sell or cede its own territory, with all its powers over it, to another power, as in the case of the cession of the District of Columbia to the United States, or in the sale to Congress of places to be used as forts, dock yards, hospitals, &c. So, by the grants of municipal charters and of franchises, the legislature transfers power often of a judicial nature to corporate bodies.

The act of 1783, upon which the defendant relies, does not assign or transfer to the State of New Jersey any power which the State of Pennsylvania possessed over offences committed on the river Delaware. It waives the exercise of such authority in certain cases, and permits the adjoining State to try an offender arrested within its limits for an offence committed upon the river, in order to avoid a clash of jurisdiction which would necessarily arise from the uncertainty of fixing the locality of the offence. The same act takes care to provide for cases where this uncertainty cannot exist, as where vessels are anchored before any city or town, or are aground upon the shore of either State, that State retains the exclusive jurisdiction over them. The binding effect of the agreement of 1783 has never been questioned, and the advantages arising from it to each of the parties to it have often been recognized by our courts. It has been often appealed to for the adjustment of

differences between the two States. As between Pennsylvania and New Jersey, (says Mr. Sergeant, in his celebrated decision in the *Pea Patch Island case*, p. 122) "this compact was formed upon great deliberation and with the full knowledge of the subject, and is in conformity with the principles afterwards laid down by the Supreme Court of the United States in the case of *Handley's Lessee vs. Anthony*," 5 Wheat. 375. Soon after the passage of the act of September 20, 1783, this State, by the act of September 25, 1786, the exercise of the jurisdiction allowed by the terms of provided for the agreement, by extending the limits of the counties bordering on the river Delaware to the shore of New Jersey.

The State of New Jersey, however, took no measures to vest the jurisdiction over offences committed on the Delaware, in any of her courts, until it was discovered by the decision of the Supreme Court of that State, in the case of *The State vs. Rebecca Davis*, reported in 1 Dutcher, 483, which case occurred in 1855, that no court of that State had jurisdiction over such offences. In consequence of that decision, an act of the legislature of New Jersey was passed, by which jurisdiction over offences committed on the river Delaware was vested in the court of the county nearest to the place where such offence should be committed; and it happened, rather remarkably, that the act thus vesting jurisdiction in the county courts of the State of New Jersey, was approved and became a law on the 14th March, 1856, the very day previous to the time on which the offence alleged in this indictment was committed.

It thus appears that at the time of the commission of the alleged offence, a court of competent jurisdiction existed in the State of New Jersey, to take cognizance of the offence; and the facts admitted by the demurrer show that the arrest and prosecution of the defendant for the same offence took place in the county of Camden, before any proceedings were had in this State. By the arrest and apprehension of the defendant first in the State of New Jersey, the court of that State, which by the laws of that State had jurisdiction of the offence, became entitled under the agreement of 1783, to the exclusive "juridical investigation and determination" of the same. No other court in this State could take cognizance of

the offence. The defendant cannot be called upon to answer in two distinct tribunals for the same offence. And where the jurisdiction of a competent court has attached, no second prosecution can be sustained. No man can be twice legally tried for the same offence.

On the part of the Commonwealth, no reason has been suggested in opposition to what appears to be the necessary construction of the several laws referred to, or to the effect of the facts as set out in the defendant's pleas. It is difficult to understand what tenable argument could be advanced.

For the reasons given, the demurrer must be overruled, and the pleas to the jurisdiction of the court sustained.

Judgment was accordingly entered for the defendants in all the cases similarly situated.

*St. G. T. Campbell and J. M. Read, for defendant.*  
*District Attorney Wm. B. Reed, for demurrer.*

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*In the Supreme Court of Alabama—January Term, 1856.*

BARLOW vs. LAMBERT.<sup>1</sup>

1. *Common law, how far in force in this State.*—The common law of England, as changed and modified by our statutes, is part and parcel of the law of this State, so far as applicable to our institutions and government.
2. *Evidence of custom, admissibility of.*—Evidence of a local custom is admissible, to supply details in a contract, either oral or written, as to which the contract itself is silent; or to show that provincialisms, and technicalities of science and commerce, have acquired a known, fixed, and definite meaning, different from their ordinary import; or where such technicalities, unexplained, are susceptible of two or more reasonable constructions: but it cannot be received to contravene any positive requirement of the law, any principle of public policy, or an express contract whether oral or written, nor to give to plain and unambiguous words or phrases a meaning different from their natural import; and it is, therefore, inadmissible to show that a stipulation in a contract of hiring, that the hirer was to

<sup>1</sup> 28 Ala. Rep., N. S. 704. We are indebted to the learned reporter for this case.—*Eds. A. L. R.*